



BOARD OF EQUALIZATION

**CUSTOMER SERVICES AND ADMINISTRATIVE  
EFFICIENCY COMMITTEE MEETING MINUTES**HONORABLE BILL LEONARD, COMMITTEE CHAIR  
450 N STREET, SACRAMENTO

DECEMBER 4 2003, 9:30 A.M.

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**ACTION ITEMS & STATUS REPORT ITEMS****Agenda Item No: 1****Title: Amendments to the Rules of Practice - Issue Paper 03-015****Issues/Topic:**

1. Shall the Board authorize publication of the attached substantive amendments to the Rules of Practice (Exhibit A)?
2. Shall the Board approve the attached Section 100 Changes to the Rules of Practice (Exhibit D)?

**Committee Discussion:**

Chairman Bill Leonard introduced the proposed substantive amendments and Section 100 changes to the Rules of Practice.

Mr. Eric Miethke, of Nielsen, Merksamer, Parrinello, Mueller & Naylor, indicated that he did not have a concern about the proposed revision of Regulation 5070.

Mr. Miethke did ask the Board to reconsider the definitions of "Department" and "Party" so that they are not used as a basis to challenge the Board's decisions. Mr. Miethke suggested that other agencies be given the same standing as amicus. Staff indicated that other agencies have standing to sue the Board to enforce their duties whether or not they are identified as a party in the Board's regulations.

Ms. Mandel stated that the Controller's legal staff does not agree with BOE's staff interpretation of *Westly v. PERS Board of Administration*, 105 Cal. App. 4<sup>th</sup> 1095 (2003).

Mr. Leonard commented that his research did not indicate that the Board's definition increased the pool of agencies that may have standing to sue the Board. However, he asked Board staff to discuss this issue with the Controller's legal staff.

**Committee Action/Recommendation/Direction:**

The Board voted to adopt the staff recommendation to authorize publication of the attached amendments to the Rules of Practice (Exhibit A) and approve the attached Section 100 Changes (Exhibit D).

Approved: /s/ The Honorable Bill Leonard  
Honorable Bill Leonard, Committee Chair

/s/ Timothy W. Boyer  
Timothy W. Boyer, Interim Executive Director

BOARD APPROVED

At the December 4, 2003 Board Meeting

/s/ Deborah Pellegrini  
Deborah Pellegrini, Chief  
Board Proceedings Division